

ON THE

IMPOLICY AND INJUSTICE

OF

CAPITAL PUNISHMENT;

ON THE

RATIONALE OR PHILOSOPHY OF CRIME;

AND ON THE BEST SYSTEM OF

PENITENTIARY DISCIPLINE AND MORAL REFORM.

—

AN ADDRESS TO THE JEFERSON LITERARY SOCIETY,
OF AUGUSTA COLLEGE, DELIVERED ON THE
25th DAY OF AUGUST, 1848.

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BY CHARLES CALDWELL, M. D.

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JEFFERSON HALL, August 25th, 1848.

DR. CHARLES CALDWELL :

Sir—We are happy to have been made the instruments of discharging the pleasing duty of returning to you the thanks of the JEFFERSON LITERARY SOCIETY, for the able, satisfactory and highly interesting Address which you have been pleased this day to deliver before that body ; and also in behalf of the Society to solicit from you a copy of the same for publication.

Please accept the warmest wishes of the Society for your future welfare and happiness.

With the highest respect, we have the honor to be

Your obedient servants,

THOS. J. N. SIMMONS, }
S. S. GRAY, } *Committee.*
JOHN R. STARKEY, }

AUGUSTA, August 25th, 1848.

To Messrs. SIMMONS, GRAY and STARKEY.

Gentlemen:—Thanking you for the kindness and courtesy of your note of this date, requesting for publication, as a Committee, in the name of the JEFFERSON LITERARY SOCIETY, a copy of the Address I had the honor of delivering to that Institution, a few hours ago, permit me, in reply, to say, that I take pleasure in placing the manuscript of the production at the disposal of the Society, and am, with sentiments of affectionate regard,

Respectfully and truly,

Your obedient Servant,

CH. CALDWELL.

ADDRESS.

Gentlemen of the Jefferson Literary Society:

Unwilling to address you on a topic either trite, trivial, or common-place, I have chosen as the theme of the discourse I am about to deliver, a subject which I trust you will concur with me in considering entirely free from those unacceptable qualities.

It is composed of three several branches, somewhat distinct from each other, yet sufficiently homogeneous to be united as the members of a common whole. Its members, separately delineated, are :

The Impolicy and Injustice of Capital Punishment—the Philosophy or Rationale of Crime—and the Best System of Penitentiary Discipline, and Moral Reform:

Though, within the last twenty years, these branches have not been altogether unnoticed by juridical and other writers and professional characters; yet have the notices bestowed on them been so few, limited, and far between, as to have taken from them but little, if any, of their novelty and freshness. Nor, though their pre-eminent importance in their bearing on some of the leading interests of society, has been expressly recognized; yet has it never received, as far as I am informed, the entire attention and practical consideration to which it is entitled. In their aggregate condition, therefore, they constitute a theme abundantly worthy of any speaker, audience, or occasion, whose notice it may receive.

In consideration of the compass, added to the multifarious and diversified elements of my subject, I need hardly apprise you, that it will not be possible for me to give a full exposition of it, within the time allotted to me, by custom, on an occasion like the present. Were the time even

quadrupled in length, and my capacity to condense and epitomize augmented in a corresponding ratio, the result would be the same—a failure to accomplish the task, by the capacity, and within the period, thus augmented and improved.

Under these circumstances, the course imposed on me is too plain not to be perceived by you, and too reasonable not to be cheerfully acquiesced in by me. A full exposition of the subject will not be expected from me. Nor shall I pretend to more than to furnish you, in isolated facts and succinct propositions, with a limited amount of matter, not I trust unworthy of your acceptance, on which, in future, you may profitably exercise your own minds.

So strict must I be in my economy of time, as not, except in a few instances, to consume it in offering proof of the correctness of any of my propositions, though designed as principles of discussion or premises of argument. You must therefore accept them, on account of their inherent and obvious truthfulness, reject them for want of it, or hold them as *neutral*, until your doubts of them shall have been dissipated, by your own inquiries.

Though anxious to disburden myself of all further preliminary matter, and press at once "*in mediam rem*" circumstances, not to be resisted, forbid the immediate accomplishment of my desire. For the more certain removal of a few difficulties that lie before me, I must therefore persist for a moment longer in the employment of it.

The only argumentative portion of my address, on which, whatever merit the whole may possess must chiefly depend, will be conducted on principles of mental Philosophy. And though my creed in that branch of science is not peculiar to myself, yet is it perhaps materially different from that inculcated on you, by the teachers under whom you have received your education. That you may clearly understand, therefore, and duly appreciate the doctrines I may lay before you, it is indispensable that you

have a correct knowledge of all the technical terms and expressions I may employ in communicating them. I must therefore so far dwell on the subject, as to furnish you with that prerequisite information.

I am a believer in the modern system of mental philosophy denominated Phrenology; and through the lights derived from that alone do I pretend to the possession of any knowledge of either the philosophy of crime, or of the best system of penitentiary discipline and moral reform. Nor, except through the instrumentality of the same lights shall I be able to impart to you, on those important topics, a single thought worthy of either your acceptance now, or your remembrance hereafter. For the removal, however, of any difficulty that may here present itself, the means are ample, obvious and easy. They consist in your possession of the knowledge of a certain portion of phrenological science.

Of the knowledge of that portion I am willing to hope, you are already possessed. But, lest I should be mistaken, and my mistake prove to you a source of fallacy or non-intelligence in relation to my meaning, allow me to communicate it to you, with as much conciseness and perspicuity as I can unite in the process. And I beg you to feel assured, that, in the means I am about to adopt, there is nothing either visionary, fanciful, or problematical; although many persons have unscrupulously so pronounced them. On the contrary, they are, an element in the philosophy of man, as true, substantial, and useful as facts and correct induction can render them. Nor have any individuals but those who are ignorant of them, ever questioned either their truth or their importance.

1. Phrenology is the most elevated and important branch of Anthropology, which is again the most elevated and important of Natural History. It treats of man exclusively in his *present* state of existence, leaving his *future* and all that pertains to it, to the light of Revelation, which alone

can reach it. Of him it treats therefore as a being composed of *spirit* and *matter*; regarding the *former* and his nervous system, especially its centre the brain, as the immediate associates and co-partners, in all that he *is* and all that he *does*.

2. The brain is the organ or apparatus of the mind, and, in our present state of being, is indispensable to every action its associate performs. In the mind resides the power, in the brain the instrumentality or means of using it. No more can the former act animally, intellectually, or morally without the latter, than the latter can without the former.

3. The brain is not a single organ, each portion of which is employed in every operation it performs. It is a well ordered assemblage or system of organs, each one of which performs a function peculiar to itself. Nor can any one organ perform the function of another; though every one, in the healthy performance of its own function, ministers, as an auxiliary, to the performance of the function of every other, and of the whole aggregate.

4 The brain is composed of three compartments: the Animal, the Intellectual, and the Moral; each of which consists of a given number of subdivisions or organs of its own kind and character. Every animal propensity has therefore its origin and seat, in the animal compartment; every intellectual act in the intellectual compartment; and every moral sentiment or feeling in the moral compartment. No more can the mind perform an intellectual or moral act, without a material and appropriate organ, than it can see without a material visual organ, hear without an auditory, or taste without a gustatory one.

The animal compartment forms the basis of the brain, and a portion of its posterior and lateral regions; the intellectual compartment forms its anterior region; and its moral compartment its coronal or superior region.

5. All other things being alike, the size of the entire

brain is the measure of the general amount of mental strength; and the size of each organ is the measure of its own strength, in the performance of its function. A large animal organ is therefore the source and seat of a strong animal propensity; a large intellectual organ, of a strong intellectual faculty; and a large moral organ of a strong moral sentiment.

To these fundamental propositions in phrenology, others of moment might be added. But, not being indispensable to the accomplishment of my immediate purpose, they would be at present superfluous and cumbersome. Hence I shall not consume your time by an unnecessary introduction of them. By the proper employment of the five preceding ones, which may be regarded as so many maxims in mental philosophy, I hope to be able to render my argument intelligible and satisfactory. Here therefore terminate my preliminary arrangements.

I need hardly remark, that the thoughts on Capital Punishment, which I shall presently submit to you, will relate exclusively to the administration of criminal law in civilized society, and in peaceful times. In a state of savagism and barbarism, and during a state of war, the conditions and relations of men and things are not only different from those I am to consider, but sometimes the very opposite of them. And so must be the means and measures devised to meet them. Under their influence neither peace, sound policy, nor irrespective justice, is expected to prevail. *Inter arma silent leges*, is a maxim as veritable now, as it was during the most warlike period of the Roman empire, or of the much more sanguinary Roman Republic.

In an attempt to decide correctly on the policy or impolicy, and the justice or injustice of public punishment, the first step in the movement should be, to settle definitively the true and legitimate object of such punishment. To aid in this, let the question be put, "For what purpose is

or *ought to be*, a criminal subjected to punishment by law?"

To this question a correct answer is all-important in the inquiry, because it is essential to the solution of the further one, "Whether is the punishment, about to be judged of just or unjust, politic or impolitic?"

To the first of these interrogatories, the design of which is, to determine the object and end of public punishment, the answer may be easily and conclusively rendered. In no community, where law bears sway, and where the principles and precepts of morality and the christian religion prevail, are criminals punished for the mere purpose of inflicting on them, from motives of vengeance, physical pain and suffering, independently of their moral effects. And the chief effect intended by them on the criminals themselves, is professed to be and ought to be, to reform them, by the eradication or restriction of their criminal propensities.

That alone however would be a limited and insufficient sphere within which to circumscribe the entire influence of public punishment. That its influence, therefore, may pervade a sphere of the requisite compass, usefulness, and repute, it is further designed to act, not only on the criminals, in reforming *them*, but also on the public at large, deterring, by intimidation, the evil-minded portion of it from the commission of crime. And thus is it intended to be productive of a general reform.

But this scheme for the prevention of crime, instead of proving effectual and satisfactory, and recommending itself to universal favor and adoption, presents to our consideration another question of much interest, which involves, *in public opinion*, no ordinary share of uncertainty. And that question is, "Can the propensities to crime, in either the criminals who suffer punishment, or in those who witness it, or hear of its infliction, be thus eradicated by intimidation alone? Or, should the propensities wholly, or in part

remain, can their criminal exercise be prevented by the mere dread of punishment?

I have said that “in *public opinion*” these questions “involve uncertainty.” But not so, in *my own* opinion. *There* they involve no uncertainty at all. On the contrary, they are clear to demonstration—as far as demonstration, in such a case, is practicable. So perfectly is their condition the reverse of uncertainty, that I unhesitatingly give them a negative reply; and I do so as positively as I would to the assertion, that a part is as great as the whole, or, that things equal to one and the same thing, are not also equal to one another.

Neither can criminal propensities be extinguished, nor their action, while they exist, be with certainty and permanency prevented or restrained, by the unmanly and ignominious feeling of fear—except in the presence of those who have power and authority to inflict punishment, or who may take part in the infliction of it, by furnishing testimony against the offender. Those persons who refrain from the commission of crime, only on account of the dread of punishment, can never be trusted, on the score of honesty and general uprightness of conduct, except under the eye of strict vigilance, and stern resolution.

And the correctness of this reply is fully concurred in by all history, and by the report of all men of known veracity, who are accurately and thoroughly informed on the subject. Nor do I hesitate to add, on substantial ground to be specified hereafter, that it is also concurred in by nature herself, which is tantamount to the concurrence of the **AUTHOR OF NATURE**. And it will be made appear, in the course of my address, that **HE** has not appointed one faculty of the human mind to *reform* another; but that each must be alone instrumental in its own reform.

But, before proceeding farther, it is requisite that I submit to you a few additional and more definitive remarks on the object and end of public punishment. And in do-

ing so I shall be preparing the way for the thoughts that are to be subsequently offered on penitentiary discipline and moral reform.

In every civilized community, as already stated, it is now admitted, that public punishment must have in it no tinge of *pure vindictiveness*. A criminal must not be punished by law merely *because* he is a criminal. "An eye for an eye, and a tooth for a tooth" accords as little with correct morality, at this civilized and enlightened period of the world, as it does with the spirit of the christian religion. And with that, as will be presently shown, it is openly at war.

Of public punishment, characterized, as it ought to be, by wisdom, justice, and humanity, the object is three-fold.—1st. The security of the public from the repetition of crime by the convict himself.—2d. The prevention, by his punishment, of the commission of crimes, by other persons. And, 3d, the reform of the convict from his criminal practices; and his restoration to society as a regenerated member of it.

As far as any form of punishment falls short, in its provisions, for the attainment of these ends, it is defective; and that form which provides sufficiently for them all, is as perfect as it can be made.

Could reparation of the mischief done to individuals or the public, or to both, be made by the punishment of the criminal, that would constitute in the process a fourth very valuable ingredient. But that object can be much more probably attained by permitting the offender to live, than by putting him to death. In the former case he *may* reform and, by subsequent exertions to that effect, make some amends for his preceding malefactions. But, by his execution, all possibility of reparation by him is extinguished.

With this analysis of the subject, let us compare the provisions of capital punishment, and ascertain how far

they conform to the standard; and we shall find their deficit to be alarmingly great.

For one of the ends of punishment that form completely provides—the prevention of the repetition of crime by the convict himself. Dead men commit no felonies.

In its provision for another—the convict's reform and restoration to society—it as completely fails. Dead men cannot be revived and improved in their morals or actions.

And, to say the least of it, its bearing on the remaining object—the prevention of crime in living felons—is exceedingly doubtful. Of a large majority of persons deemed best qualified by observation to decide on it, the judgment is against it. The positive belief of those individuals, founded on facts within their own knowledge, is, that the amount of crime decreases with the mitigation of penal law, and the decrease of capital punishment. And, in corroboration of that belief, they adduce evidence, in the form of authentic extracts from the statistics of crime.

In Great Britain, the government has tried, within the last fifty years, the influence of every sort of punishment that a people full of resources could devise and execute, or a civilized one be induced to tolerate. In the course of these trials it has resorted to imprisonment, tread-mills, whipping, cropping, branding, transportation, and hanging. And, under each of them, the sum total of crime, in proportion to the amount of population included in the estimate, has increased. And, during a portion of the experimental period, the number of executions on the gibet, especially in London, was truly appalling.

But, within the last few years, the mitigation of the penal law has greatly reduced the number of such executions; and, during that interval, the amount of crime has perceptibly decreased. Yet has the population of London, within the same period, been materially augmented. And of the other large cities of the kingdom the same is, in both respects, true. While their population has increased, crime

has decreased, since the sum total of capital punishment has been lessened.

Nor do the same results, from the same causes, appear to be less firmly established, in some of the most enlightened nations of continental Europe. *There* also statistical records, united to the observation of distinguished men, conjointly testify, that, with the mitigation of the severity of criminal law, and its less rigorous administration, the frequency of murder, and other capital crimes has been obviously diminished—Such is the evidence; and it is authenticated by the experience of no inconsiderable proportion of christendom.

If then capital punishment secures but one of the three ends which public punishment ought to secure (and that the least important of them;) and if that end can be as well provided for, by another mode of punishment, which makes provision also for the other two (and that this proviso can be fulfilled will be hereafter shown)—under such circumstances, the existence of capital punishment in our country bespeaks a deep defect in our penal laws, which ought to be remedied, by the repeal of the faulty, and the substitution of a wiser form of policy.

Nor does its insufficiency to attain the end designed by it constitute my only objection to capital punishment. If I am not mistaken in my construction of some of the most clear and significant phrases of the Messiah's Sermon on the Mount, and of his lessons elsewhere delivered, it is utterly at war with the spirit and precepts of the christian religion. And although I am neither a fanatic nor an enthusiast in creeds and homilies, and although I am thoroughly persuaded, that the writings of neither the Old nor the New Testament were either designed to dictate or are calculated to dictate to enlightened communities the form of policy they should establish and pursue, yet do I set a high value on a becoming consistency, in spirit and meaning, between the laws and institutions of

our country, and the religion we profess. To say nothing of the sacredness of the duty of such consistency, and of the danger to public morals of neglecting or violating it, a mere regard for appearance makes a demand for it that ought not to be resisted. Most assuredly no direct or even implied conflict between our government and our religion, that can possibly be prevented, should be instituted or tolerated. And the act of deference and conformity should be paid by the terrestrial to the celestial interest—not the reverse. It should be paid by statute law to morality and religion, not by morality and religion to statute law. Yet do I contest the possibility of reconciling the principles and practice of capital punishment with the sentiments and precepts, uttered on the Mount, by HIM “who there spake as never man spake,” and whose words are recorded in the 43d and 44th verses of the 5th chapter of the Gospel by St. Matthew.

“Ye have heard that it hath been said, Thou shalt love thy neighbor and hate thine enemy.

“But I say unto you, Love your enemies, bless them that curse you, do good to them that hate you, and pray for them that despitefully use you, and persecute you.”

To this may be subjoined another precept of the Messiah, characterized by the same spirit, and recorded in Matthew vii chapter and 12th verse:

“Therefore all things whatsoever ye would that men should do to you, do ye even so to them; for this is the law and the prophets.”

I am no stranger to the construction generally placed on these passages, and the practical application of them for which most commentators, especially those, who attempt a defence of capital punishment, strenuously contend. They are said to have been designed for the regulation only of the intercourse and reciprocal duties of private persons, and not as a prescription of duties to public functionaries—to prohibit individual enmity and quarrel,

assault and assassination, not to prevent capital punishment inflicted by law.

But in no part of the sermon or elsewhere does there exist the shadow of authority for a construction or comment so one-sided and exclusive. The attempt to frame and enforce such construction is the result of a religious prejudice or dogma, founded on certain passages, in the Old Testament, a reference to one of which will be made hereafter. The sentiments uttered and the precepts issued by the Messiah, on the occasions alluded to, are, in spirit and character, as catholic and diffusive, and in manner as definite, as language can make them. They are applicable therefore, as guiding principles, though not as specific rules, to men of all casts, conditions, and callings, whether public or private, provided they profess the christian religion, and acknowledge the supremacy of the moral law. In whatever community such profession and acknowledgement are formally and solemnly made, every conventional law, and every regulation of internal police ought, in principle, strictly to conform to them, else will clashing and mischief be the issue.

There do not exist two different codes of moral and religious principles; one for the guidance of public officers, and the other for that of private citizens. Individuals of every class and description must, in all cases, submit to the same code. In moral and religious points of view moreover, the government of a country is related to every citizen of it, precisely as one citizen is related to another; and it must act in accordance with that relation, or violate its duty. And this rule is as applicable to acts of public punishment, as to those of any other sort. In language still plainer and more emphatic; the government must not dare, in any of its transactions, or measures, to set to the citizens an immoral or irreligious example. Under the influence therefore of these considerations, I confidently submit to you the following remarks :

Without asserting that the plain and significant passages just quoted from the lips of the Messiah, are to be received in their *most literal meaning*, I am persuaded that they will bear, without the slightest perversion of their intent, the following exposition; and that they may be thus, with propriety, employed as practical precepts.

When you are in contest with an enemy, respecting your own personal interest and welfare, the interest and welfare of your family and friends, or those of the community in which you live, use toward him no unnecessary violence. Act on the *defensive*, as long as you can do so consistently with the safety of yourself and the party, in whose behalf you are contending.

If you can, unharmed and free from peril, attain your end without it, do your adversary no personal injury—especially no deep or dangerous one. Should it become necessary to the attainment of your purpose, disarm, but do not seriously maim him. Subdue and enfeeble him; deprive him of the power and means to do mischief; but do not kill him. Let the taking away of his life be the only hindrance you can any longer oppose to the evil he meditates, and then strike the fatal blow—but do not sooner strike it.

To this extent at least, if no further, do the *verses I have quoted* urge their injunctions. And to prove the incompatibility of capital punishment with the christian religion, (admitting those verses to make a *portion* of the latter, and to be in unision with the *whole*) nothing more is requisite.

The case of the convict is even stronger than that of the adversary I have just described. He is already captured, disarmed, fettered, and imprisoned, and therefore incapable of all further criminal acts. And, in that impotent and harmless condition, he may be retained without danger, difficulty, or inconvenience to any one. The public has full possession and control of him. Nor does he even

aim at resistance or escape ; because, in relation to both, he is helpless and hopeless. The community, his captor, is powerful and full of means and resources ; while he, a captive, degraded and doomed, is feeble, heartless, and destitute of every thing. As respects protection and safety, the condition thus exhibited is that of the wren quailing beneath the swoop of the eagle ; or of the kid awaiting the spring of the lion.

In a case of such deep and utter destitution, setting aside the injunctions of morality and religion, there still remain misery and wretchedness to move and to melt.— To the manly and high-hearted, in common with the humane spectator, the prisoner thus reduced, dejected and out-cast, (unless he be a paragon in all that is most base and odious,) is much more an object of commiseration and kindness, than of resentment and severity. And he should be so regarded by the public. Provided it can be done, therefore, with entire safety to all the interests of individuals and the community, he ought to be now protected from bodily suffering, instead of being deliberately and inexorably made the subject of it. And by the scheme of penitentiary discipline, to be described hereafter, the provision required, for the attainment of the object contemplated, can be easily made. Without the slightest injury, or even serious risk to any existing interest or immunity, the life of the culprit can be saved, and his conduct and character, in all probability, materially amended. To consign him therefore to the gibet, would constitute an act, which I am reluctant to name. But were I to pronounce it *cold-blooded murder by authority of law*, and a suit in slander be brought against me, on account of the appellation ; I would not shrink from the trial, provided I were permitted to *give the truth in evidence*.

I have already stated, and now repeat, that no portion of the Old or New Testament was either designed, or is at all calculated to dictate a scheme of policy, whether

civil or criminal, to great and enlightened communities in the nineteenth century. Nor will any statesman or civilian of standing call in question the soundness of the sentiment.

Yet is much stress, in contradiction of it, laid by certain commentators, on the following words of the Deity to Noah, as recorded in the sixth verse of the ninth chapter of the Book of Genesis.

“Whoso sheddeth man’s blood, by man shall his blood be shed.”

This is generally represented as a divine precept or command intended to be perpetual and take effect, unchanged and unrevoked, through all time, and under all circumstances, in christian communities. In my own opinion, however it is but a divine *permission*, or declaration of a *right of government*, to be carried into effect, or exchanged for a substitute, as circumstances may require. At all events, whether it be precept, permission, or declaration, it has in it nothing of divinity, save its authorship. In all other respects it is in character entirely human.

It is a mere rule of municipal or State policy, to protect society and individuals from deeds of murder, and other forms of violence and outrage. And when communicated to Noah, it was no doubt the only rule, by whose influence such protection could be effected. The reason is plain. It suited the condition of society at that period. And it was adopted and inculcated as a law, by Moses; because it suited also the condition of the Jews, after their emancipation from Egyptian bondage.

At the time of Noah and for thousands of years afterwards, there were not in any portion of the earth either *places* or *means* provided and fitted for the imprisonment and safe-keeping, much less for the instruction and reformation of habitual offenders. Nor are there, in many parts of the world, and conditions of society, any provisions of the kind even at the present day. And wherever such

means are wanting, and cannot be provided, resort must be had to capital punishment. Nor, as already intimated, can the words of the Deity to Noah fairly receive a broader construction, than as a mere permission to that effect.

Hence, among the aborigines of our own country, the Tartars, the Arabs, and every other barbarous and savage people—the blood of the murderer is shed by the kinsmen of the murdered. The reason is equally plain and imperative. By no other form of policy can society be protected from the hands of those whose delight is in blood, and other deep and formidable crimes. Nor have we any reason to believe that, for centuries on centuries after the days of Noah, the most civilized and enlightened nations of the earth were any better provided for, on the subject of murder, than are at present the wandering Arabs, the barbarians of Tartary, or the savage hordes of the forests and prairies of our own country.

To myself, the case I am considering is so plain and simple, that, were it not for the broad-cast and deep-set prejudices that prevail in relation to it, I would not have bestowed on the discussion of it a single moment. The attempt to convert or rather to *pervert* the text I have quoted from the writings of Moses into an argument in favor of capital punishment, is palpably absurd. As well may an effort be made to re-establish any Jewish rite or ceremony of worship practised by the high priest in the Temple, which is expressly forbidden by the precepts of christianity. For, as already stated, the sentiments of the Messiah, in his Sermon on the Mount, are in plain opposition to capital punishment; and a virtual abrogation of the rule prescribed to Noah.

With sufficient propriety, were it necessary to my purpose, might I set, in opposition to that rule, the case of Cain, who was not only not ordered to be slain, as the murderer of his brother; a mark was set on him, by the Deity himself, for the *preservation of his life*, lest any

one might arrest him, as a fugitive, and put him to death. Yet is fratricide a deeper crime than common murder.— But I repeat what I have already said, that an attempt to deduce, from texts of Scripture, either forms of, or modes of administering civil government in large, civilized, and enlightened nations, in the middle of the nineteenth century, is futile and absurd, and would disgrace the weakest statesman that ever sat at the helm of public affairs.

Though perhaps a little out of place, permit me, at this stage of my discourse, to state to you more expressly and precisely than I have yet done, the views of capital punishment, which I have myself long entertained, which it is my purpose to defend, on the present occasion, and which, if I mistake not greatly the signs of the times, are becoming, gradually but certainly, the views of the country.

To that form of punishment society, as a body, bears the same relation as does an individual. And that relation is to the following effect. One human being should never destroy the life of another, except as the issue of positive necessity.

An individual, for example, is assailed by an enemy, with an intent to commit murder; and he is unable to prevent the consummation of the deed, except by destroying the purposed destroyer. The necessity of the case fully justifies him in the fatal act. But if he first arrest the malefactor, disarm and master him, and then take away his life, he is himself a murderer. Why? Because he premeditatedly sheds the blood of a human being who is then harmless—whose life is therefore no longer a nuisance, or source of injury or danger to any person, or any interest, whether public or private.

One person sees another about to commit murder, arson, burglary, or some other flagrant crime, which it is impossible for him to prevent, except by taking away the life of the felon. The necessity of the case again justi-

fies the deed. Why? Because the life of the felon, which is now a *public nuisance*, is staked against that which is, both publicly and privately, useful and valuable; and one of the articles staked must be lost. The hazard therefore being the product of his own evil propensities, the loss ought in justice to fall on the guilty, and not on the innocent.

But if the felon even commit the crime, and be then arrested, disarmed, and subdued by the spectator, his life must be spared. To take it away would be murder—I do not say as aggravated as the murder just committed by himself; because that was unprovoked. But it would be as actual a departure from the principles of moral rectitude, and as palpable an infringement of a moral law.

With regard to society as a body, the same is true.—It has a right to take away human life, to prevent crime; if prevention can be effected in no other way. When civil officers, for instance, are commissioned to search for and take prisoner a high and habitual offender, who has previously, by vigilance, stratagem, and otherwise, frequently eluded capture, and still persisted in his criminal practices, their orders may, justly enough, be, to make him personally forth-coming either dead or alive. In such a case, if he be again on the verge of frustrating all their efforts to capture him, they are justified in destroying him.

But if he be captured, and in every way debarred from his criminal pursuits; and more especially if such a disposition of him can be made, as to produce in his propensities a stable reform, and render him useful in future to society and himself, to take away his life would be a criminal act. In plain terms, it would be murder, as genuine, though not perhaps so atrocious, as if it were committed by a cup of poison, or by the dagger of an assassin.

From these considerations, which I believe to be in strict accordance with reason and common sense, as well as with the precepts of morality and religion, it clearly appears,

that when public and private interest and welfare can be secured without it, capital punishment is impolitic and unjust. By the wisdom and patriotism of our legislative bodies therefore it ought to be abolished, and a just and salutary form of punishment established in its place. I say of "punishment," for habitual offenders must not be allowed to revel, "unwhipt of justice" in their orgies of crime. But the punishment should be adapted to the time, place, and other circumstances of its infliction.

Nor, in a discussion of the subject, should the fact be concealed, that, in *many*, if not in most parts of our country, it is exceedingly difficult to procure the conviction of a criminal, whose punishment, *if* convicted, is to be capital. No matter how clear, and strong, and pointed may be the evidence of his guilt. A jury cannot be induced, without great labor on the part of the prosecution, and great reluctance on their own part, to *pronounce* him guilty. The reason is plain. From a belief in its injustice, cruelty, incompatibility with the christian religion, insufficiency to prevent the commission of crime, or some other exceptionable characteristic in it, capital punishment is already very unpopular in the United States; and the strength of the objections urged against it is daily increasing. We are a resolute and self-governing people, and will not long submit to what we *believe* to be wrong—more especially to what we *know* to be wrong, and susceptible of a prompt and salutary change. And, could no other ground of action against it be adduced, on that alone which I am considering, will capital punishment be ultimately abolished.

The consequence of this state of things is equally plain and deplorable. Many criminals, whose punishment, if convicted, would be *death*, are, *for that very reason acquitted*, and permitted to remain with their associates, and renew their career of vice and violence. Had the punishment allotted to them, however, been any thing *short of*

death, they would be promptly consigned to it. And society would have been, for a time, protected from their crimes.

Or if the jury convict, and the impending punishment be capital, the executive officer, in whom is vested the power to pardon, is much more likely to exercise that power, than he would be, were the punishment less sanguinary.

Allusion has already been made to the fact, which is perfectly authenticated by statistical reports, that capital punishment does not diminish the commission of crime. But a reference to that is not all that the subject requires of me. I must now therefore push my remarks so far as to state, what is believed and asserted, by some of the most enlightened men and best-informed observers, that, far from diminishing, it even *augments* the commission—That the more blood men of a certain organization and temperament shed, and see or even hear of being shed, the more they desire to shed. And that this is a truth, facts in abundance present themselves, if not actually to prove, at least to render *highly probable*. One very important fact founded on the belief is, that, convinced of the deleterious influence of public executions, the British Government suspended them for many years, and substituted private ones in their place. But, through newspapers, and by other means, the executions were made publicly known; and it was found, after a fair trial, that the mere *knowledge* of them and the *sight* of them were productive of the same effect—they excited the perpetration of crimes similar to those for which the convicts had suffered. Nor is this all.

In every page of the history of the first French Revolution, such facts are recorded in characters of blood. And so would they have been in the history of the late one, at the very commencement of it, had not Lamartine crushed the spirit that was leading to the erection of a political tribunal. Had he not, by the power of his genius, and the

magic of his eloquence, held in check his sanguinary colleagues, the streets of Paris would have been converted into a slaughter-house. For every day, during the "Reign of Terror" in the French capital, shows, and every massacre, whether there or elsewhere, that has been circumstantially recorded shows, that when men of a sanguinary disposition are once excited by a deed of death, their thirst for blood is roused into a passion, which nothing but the shedding of blood can appease. So perfectly is this truth known in France, and so thoroughly are the grounds of it understood, that it is openly acted on in their courts of justice.

Hence, for many years past, in trials for capital offences, the French juries have been authorized by law, to use a discretionary power, and, under certain regulations and restrictions, to substitute some other form of punishment for the taking away of life.

As my desire, in common with my design therefore is, to carry with me, throughout my address, somewhat of a spirit of philosophy, as well as a narrative of facts, allow me to state to you the reasons why capital punishment is believed to be an incentive to the commission of crime. And here again I must tread exclusively on phrenological ground.

But before commencing this exposition, allow me to call your attention to another scene of recent occurrence, in which a familiarity with death converted thousands of human beings into "Demons incarnate." My allusion is to the late insurrection in Paris. Some of the fiend-like atrocities of that outbreak of human ferocity and rage too clearly show that when even kind and mellow-hearted *woman* has once stained her fingers in blood,

*"The time and her intents grow savage wild;
 "More fierce and more inexorable far,
 "Than empty tigers, or the roaring sea."*

The mothers, wives, and sisters of the insurgents,

mingling with their male connexions in the strife, and becoming infuriated by the sight of the blood that was flowing, committed, on the persons of their prisoners, acts of violence so unwoman-like and inhuman, that my pen recoils from making a record of them. Nor, before they had witnessed the slaughter that was around them, could they have been either led or driven to the commission of one of them.

And now for the philosophy of this apparently unearthly yet natural phenomenon.

No vital movement ever occurs, except as the result of a stimulant impression. Every propensity and sentiment, whether belonging to man, or to the inferior animals, is excited to action, only by some peculiar and congenial stimulus. And that stimulus, when properly applied, never fails to awaken the propensity or sentiment corresponding to it, any more than the explosion of the percussion-cap fails to fire the powder in contact with it.

Thus when a dog, a horse, a sheep, a kid, or any of our other domestic animals, sees one or more of its own species indulging themselves in sport, it immediately joins them in their pastime and merriment. And human beings do the same. Hence the adage that "laughing is catching;" and the difficulty, not to say the *impossibility* we often experience to maintain our gravity and decorum, though determined to do so, when those who are around us are indulging themselves in glee. Nor is weeping less contagious. Why? Because the act of weeping in one person throws into a similar condition, on the principle of congeniality and sympathy, the corresponding organ and its function, in those who witness it.

Of rage and a propensity to destroy, the same may be affirmed. They also are *contagious*; being as naturally and certainly produced by their appropriate stimulants, as is a sense of coldness by ice, or of heat and pain by molten metal.

Does a dog see two or more of his race engaged in battle? He usually takes part in it. But whether he does or not, he manifests anger, and prepares to take part. And so, under similar excitement, do men, in whom the battle-propensity predominates. Occurrences in proof of this are perpetually witnessed, in public meetings, where excitement is high.

When one of our male domestic animals, (say the bull or the ram,) challenges another to battle, he acts on the same principle. He manifests anger, is understood and answered. This is equally true of the male of our barn-yard fowls. And on the same ground is the tiger infuriated by the sight, but more by the taste and odor of blood.

Of the propensity to *destroy*, acts of destructiveness of any sort, whether witnessed, or only heard or read of, are the appropriate stimulants. As soon as they are applied therefore they arouse it to action. And they direct to the perpetration of a deed in their own likeness. Does the excitant consist in the taking away of human life on the gibbet, by the sword, the dirk, or the pistol? or is it an act of suicide? No matter how life is taken away, whether publicly or privately; in persons of a suitable development and temperament, who either witness the deed, or learn it by report, it awakens to action the instinct to destroy human life. On this ground even suicide is propagated by a *sympathetic contagion*. Hence, the well known fact, that in cities, where accounts of exciting events are swift on foot, single acts of suicide seldom occur. Most frequently several of them are committed in succession, at intervals of a few days. Is burglary or arson the deed of destruction and cause of excitement? It produces its likeness; and burglary or arson follows. This statement is fact—not fiction—the result of observation—not the fruit of fancy. Hence another time-worn addage—“*Mischief seldom travels alone.*”

Nor, whatever exceptions to it may present themselves,

is the adage altogether groundless. To this truth my own observation has long testified, in relation to three sorts of destruction—murder—suicide—and arson. And the testimony is to this effect. Those destructive deeds have, on oft-repeated occasions, occurred so numerous, and in such rapid succession, under my own eye, as to appear to be related to each other as effects arising from a common cause. So striking and impressive has this appearance been, that, speaking in the technical language of my profession, I have frequently pronounced their prevalence “*epidemic*”—a *general* evil, the issue of the *same general agent*.

This constitutes all that time permits me to say, in the abstract, on the *impolicy* and *injustice* of capital punishment. And it may be thus recapitulated. Its impolicy consists in its not being so effectual a preventive of crime, as another expedient that may be instituted and used as a substitute.

And if that charge against it be valid, it proves its injustice as conclusively as it does its impolicy. The reason is plain. Government wrongs society by having recourse to it as a preventive of crime, when a more efficient one may be employed. Of this again the reason is plain. Society is justly entitled to the best and most thorough preventive that can be devised and reduced to practice. Nor is capital punishment just to the criminal who is made the subject of it. For this opinion also a reason both plain and momentous can be rendered.

Public punishment should have in it no retrospective quality. In all its elements and bearings, it should be prospective. A criminal ought not to be punished for what he has *been*, or for what he has *done*, unless by the infliction of the punishment his future life is amended, or the mischief he has been previously guilty of, remedied. Without these conditions, punishment on account of past offences is purely vindictive. But to inflict on a criminal the punishment of death neither produces any useful effect on his

life, nor atones in the slightest degree for the mischief of his actions. With no reference to the past alone therefore ought he to be punished corporeally at all.

Let it not be imagined, from any sentiment here expressed, that my view and wish, on the subject I am considering extend to the entire abolition of punishment of every description. Far otherwise. I would abolish only *capital* punishment, and such other kinds as consist in the infliction of suffering for past offences, apart from the exercise of any influence in the production of subsequent reform. I would abolish in a special manner every sort of corporeal punishment, which only degrades, irritates, and hardens. And such alone are the effects of tread-mills, whipping, cropping, and branding.

For these, and others resembling them in their principles and effects, I would, as will be stated more particularly hereafter, substitute the punishment of solitary confinement, with all its concomitants and consequences, strictly enforced. And to those criminals who have been long habituated to the licentiousness, frolic, and indulgence of dissolute society, that is a punishment of great severity. As far as actual suffering is concerned, it is vastly more severe to most of them than would be hanging, decapitation, or any other kind of capital punishment, that of torture perhaps excepted.

But, without dwelling farther on this topic, I shall now examine briefly the punishment of death in another of its relations.

We have already seen that it does not afford to society the best and most certain protection from crime, by being itself the most effectual preventive of it. On the contrary, though it terminates the career of the criminal who suffers, we have too much reason, as just represented, to believe, that, in certain cases, it is instrumental in the instigation of others to the pursuit of a similar one. Society is therefore injured by it; and government is unjust to

society, in the infliction of the injury, and is bound so far to make amends for it, by preventing it, in future, as to discontinue the defective means, that have produced it, and substitute for them such as are sound and salutary. But to proceed.

The relation of capital punishment, to which reference was last made, is exclusively to the criminal himself. And, waving all sublunary and minor concerns, it is limited to his condition in a future state. Nor can it be contemplated, in a spirit of christianity and benevolence, without the deepest emotions of apprehension and awe.

In its bearing on the criminal, capital punishment is not content with cutting him off from all that belongs to earth and time. It *may* also fatally interfere with his higher concerns in Heaven and eternity. A jail-bred or gibet-bred repentance and amendment is an event of a character too improvident and equivocal, to be regarded as a safe guaranty of man's condition beyond the grave. To neither of them certainly ought an heir of immortality *deep in guilt* to be compelled by human authority to resort, and, in failure of it, to abide his lot, in a future state, without any repentance or amendment at all. Yet am I justified in asserting, that to that fearful dilemma are those reprobate beings who expiate their crimes on a gibet, almost of necessity, driven *in mass*. The reason is plain. Not only are they guilty of the crime for which they die, and which, of course, is one of great atrocity; most of them are steeped in turpitude and guilt of every description, and of the deepest and most ineffaceable dye. Yet are they, while floundering and reeking in this gulf of pollution and profligacy,

“Cut off even in the blossom of their sin,
 “Unhouseled, unanointed, unaneled;
 “No reckning made, but sent to their account,
 “With all their imperfections on their head.”

An act of this sort, deliberately performed in any place, is sufficiently horrible—when performed in a christian community, *unspeakably so*. It is disavowed and forbidden

by every precept and sentiment of the christian religion. It is moreover as much a relic of barbarism and ignorance, as is trial by the ordeal of fire or water. And, like that, it will be expunged from the criminal code of our country, at no very distant, but more enlightened and christianized period—But I must leave it, and offer to you a few remarks on the rationale of crime.

As far as our knowledge of material creation extends, its orderly and sound condition is the result of its equilibrium—or of its near approach to it. Derange that condition, and disorder and confusion will ensue, in proportion to the amount of the derangement produced. Is the derangement great? The *disorder* will transcend the limits of that name, and become *disaster*. To illustrate this position, and show its application to the subject I am considering.

The equilibrium of centripetal and centrifugal forces preserves from disturbance the orrery of the heavens.—Destroy or deeply unsettle it, and you have, in the following passage, the poet's vigorous and sublime description of the mighty, and dismal catastrophe that will occur.

“ Let earth unbalanced from its orbit fly,
 “ Planets and suns rush lawless through the sky ;
 “ Let ruling angels from their spheres be hurled,
 “ Being on being wrecked, and world on world ;
 “ Heaven's whole foundations to their centre nod,
 “ And Nature trembles to the throne of God.”

Unsettle the equilibrium of the solid and interior portions of our own globe, and you have all the horrors of the earthquake, and the volcano—the equilibrium of its waters and its atmosphere, and you are presented with the wild and turbulent scene of a tempest-beaten ocean—of its atmosphere with the vapor and electricity it contains, and you are visited by the thunderstorm, the tornado, and the tempest—and disturb to a sufficient extent, in *one* respect, (that of *addition*,) the equilibrium of caloric with all other sorts of matter belonging to our globe, and the entire mass

will be liquified or converted into gas—in the opposite respect, (that of *abstraction*,) and it will become solid and motionless.

But these are scenes of disorder and tumult which we witness only in the great field of lifeless inorganic matter. It is not however, on such matter alone that a breach of equilibrium exerts a deep and deleterious influence. That influence makes its way to different portions of the human body, and produces forms of disease corresponding to the characters of the organs it visits. It attacks one set of organs, and gives rise to tetanus, another, and produces epilepsy, a third, and excites St. Vitus's dance, and a fourth and fifth, and the consequences are colic and gastrodynia; a sixth set of organs is attacked, and the consequence is pleuritis vera, a seventh, and it is bronchitis, and an eighth, and carditis is produced. Nor is this all. It visits also the human brain, the sanctuary of the mind, and, by its action there, indirectly prepares the way for the endless interruption we witness in the harmony, peace, and happiness of the world. In more explicit terms; to the want of an equilibrium in his brain, and to nothing else, is man indebted for his propensities to vice. And *they* produce the world's disasters to which I allude. Remove that want, and those propensities will be extinguished or weakened and rendered tractable, and his commission of crime effectually prevented. And in the mode of affecting that removal, and establishing an equilibrium, consists the only correct and practicable scheme of penitentiary discipline and moral reform. But, to speak on this topic more specifically and in detail.

The brain, as heretofore mentioned, consists of three principal compartments, the Animal, the Intellectual, and the Moral, each composed of a given number of separate and distinct organs or subdivisions.

When cerebral healthfulness prevails, and those compartments, with their subordinate divisions are in equili-

brium with each other, the brain is in a sound condition, and neither *has*, nor *can* have any very strong propensities to vice—or, if such propensities *be* strong, they are restrained by moral and opposing ones equally strong. For it is to be understood and remembered, that the moral compartment acts as a check or counterpoise to the animal, by restraining its excesses.

The different conditions and economy of the brain may be aptly illustrated by the system of machinery I hold in my hand. (A watch.) Of this piece of mechanism, the dynamic and restraining, or moving and regulating forces are in equilibrium, and its performance is correct. Its mainspring and running works constitute its animal propensities, and its balance-wheel and regulator its moral check. While all these forces, I repeat, are in equilibrium, the performance of the machine is accurate, and its time-telling true. But remove the balance-wheel and regulator, or weaken their force, the mainspring and running works remaining as they are; the latter will transcend the former in strength, and disorder and confusion will instantly take place. Replace the balance and regulator, or add to their force, and regularity will be restored. And such is the case with the human brain, as will more fully appear, in the analytical exposition of it I am now about to commence.

As already stated, the animal compartment of that system of organs is the source and seat of every animal propensity, whose excessive and unrestrained action constitutes vice; and each of its specific propensities is seated in its own specific organ.

The moral compartment is the source and seat of the moral and restraining faculties—each of them, (specific in itself) being also seated in, and produced and exercised by, its own specific organ. And the comparative size of these two compartments is indicative of their comparative strength.

The intellectual compartment is the apparatus and seat of all intellectual action, each of its organs possessing a specific character, and performing a kind of action equally specific. This compartment has, in itself, no special leaning toward either vice or virtue. Except therefore on the score of the knowledge and power it possesses and exercises (and they may be rendered tributary alike to good or evil) it neither deteriorates nor improves the character of its possessor.

Holding in remembrance these facts, it is easy to detect the native tendency of an individual toward vice or virtue, from the comparative developments of the different compartments of his brain.

Is his animal compartment large, and his moral one either really or comparatively small? His animal propensities naturally predominate; and, by an improper education, or no education at all, and the influence of unprincipled associates, he can never fail to be dissolute and vicious.

Has he a feeble intellect? He cannot be a great and powerful malefactor, for want of the necessary strength and means. Has he a strong and active one? If he make his intellect and knowledge minister to his "**RULING PASSION**" (which he will most probably do) his evil deeds will correspond in strength and general character to the intellectual force which aided in their production.

Facts testifying to the correctness of these statements may be collected in abundance in every large and crowded penitentiary I have ever visited in England, France, or the United States. And they have been nearly twenty in number. A vast majority of the heads of the convicts under confinement in them were large in the animal, and comparatively small in the moral region. And the intellectual region of but few, if any of them, was well developed. They were heads of a very inferior order. And the crimes that had been committed by those who wore them, though often repeated, were comparatively petty.

The criminals were therefore habitual and gross, but not profound and powerful offenders. The commission of their offences did not require the aid of a strong intellect.

Nor have I ever, in a single instance, seen a convict, whose head was large in the moral region and diminutive in the animal. An individual, with such a head, highly and habitually criminal, would be a marvel.

A man whose head is well balanced, and even large, its three compartments being in sufficient equilibrium with each other, may, under strong temptation, or when driven from his propriety by an impulse of passion, commit a crime, and be imprisoned, convicted and sentenced to the gibet. But without repeated and powerful temptation, he can never become a *habitual offender*.

From the foregoing exposition, if correct (and I am willing to submit it to the sternest ordeal) two truths satisfactorily appear—that, in all offenders, the brain is the source and seat of their propensity to crime—and that the condition which usually renders it so, is a defect in the development and size of its moral compartment.

By the laws of every civilized country, that defect, (or rather one of its natural consequences) is made a plea for punishing the individual in whose brain it occurs. Why? Because in acting in strict accordance with the nature of his cerebral organization, he violates those laws. Because he does not restrain his criminal propensities, though nature has denied him the usual power to restrain them.—Because in fact he does not do what no man does or *will* do, until trained to it—abstain from the gratification of his “*ruling passion*.”

Instead of the moral, had his defect occurred in the intellectual compartment of his brain, he would be incapable of sound intellectual action, would be called an idiot, and held irresponsible for any of his deeds, whatever might be their atrocity. Why? Because nature, by withholding from him a suitable condition of the requisite organi-

zation, has denied him the capacity of correct thinking and judging—of discriminating between right and wrong—good and evil.

Not only is the animal compartment of the brain the source and seat of criminal desires; it is also the source and seat of energy and vigor of action and character. Had the defect therefore occurred in *it*, the individual would be a sluggard—a semi-lack-life—a spiritless idler, burdensome to himself and useless to the community. Yet does no law make provision either to punish or protect him. He is allowed to waste his time, like a ship in in a calm, making no movement in any direction, or for any purpose either good or bad.

Here now are three individuals, each of whom is curtailed in his brain, and from each of whom are thus withheld the efficiencies of man, by the hand of nature. In neither case moreover has the individual himself had the least agency in the production of the evil or misfortune that has befallen him. In each therefore he is equally free from fault either committed or designed; and in each he acts according to the organization which nature has bestowed on him.

Both publicly and privately however, very differently are those individuals regarded and treated, *under* and *by reason of* the deprivation inflicted on them by the agency of nature.

He who is defective in the animal compartment of his brain is, without much complaint against him, tolerated and supported in his idleness and uselessness.

He who is intellectually deficient, is *pitied* and *protected*, as an imbecile ought to be, *because* he is an imbecile.

But he who is morally deficient is *hated*, *denounced*, and *punished* as a *felon*—*though* he too is an imbecile. And, by acting as such, in accordance with the organization and temperament imposed on him by nature, he has violated some statute law, and injured some public or private inter-

est, in consequence of being deprived of a sufficient power of self-restraint. Yet is he no more *originally* in fault, from any act or neglect of his own, than is he, who is made an object of pity and protection. And even when he commits faults, he acts as precisely in conformity to the development he has received from nature as does the other.

To close my remarks on this subject, in language as express and unequivocal as I can make it; and which I wish to be remembered as mine. The three individuals just described are affected (of course by nature herself,) with *idiocy*; each of them indeed with a different form of that malady, but not on that account the less genuine and grievous.

Nor is there any more criminality *in being born* with a brain defective in its moral, than with one defective in its intellectual or animal compartment. And the sort of action, to which the defective development in the former case leads, is equally as much the natural and necessary result of development, as it is in the two latter ones.—Hence it requires a brighter *clairvoyance*, and a keener power of astuteness and discrimination than I either actually possess or pretend to possess, to discover any criminality justly chargeable to any one of the individuals, which may not with equal justice be charged to the others. In terms still more explicit, I cannot perceive why either of them *should* be, or how either of them *can* be accounted criminal, in consideration of his being the subject of a deficiency of *brain*, and consequently of *mind*, in the production of which he had no agency.

In my opinion, whatever criminality attaches to cases of moral idiocy, should be charged to the account of *other persons*, much rather than to that of the *idiots themselves*. And those persons are the individuals, whether parents or guardians, to whose care the idiots have been intrusted *from their infancy*. The only criminality discoverable in the cases has resulted from the neglect of the education

and training of the unfortunate imbecile. For it will be shown presently that they are susceptible, by proper treatment, of much and very profitable improvement both intellectual and moral. For parents and guardians then to neglect the means of such improvement, when easy of attainment, is, in a high degree blame-worthy—not to pronounce it criminal.

The three cases of cerebral deficiency, to which I have referred, are but so many *different forms of mental derangement*, and should be so treated. A burning propensity to crime is as genuine a symptom of a certain kind and degree of mental derangement, as a hot skin or a frequent and tense pulse is of an inflammatory fever. And, by judicious treatment, the two complaints are equally remediable.

From the sentiments heretofore expressed, my reason for the entertainment of this opinion must be obvious. I then asserted and now repeat, that, in our present state of being, the mind acts only through the instrumentality of the brain. Derange that instrument, or rather system of instruments, and it follows of necessity that the action of the mind by means of it is also deranged. The production of a sound and perfect effect, with a defective instrument, is impossible.

Let me not, on this delicate and important point of doctrine be misunderstood. I do not contend that all persons, who, in consequence of a defect in the moral compartment of the brain, are habitually criminal, perpetrate their crimes of *necessity*. I do not contend that they are not *free agents*, and therefore morally accountable for their actions. On the contrary I acknowledge that the reverse is true in perhaps nine hundred and ninety-nine cases in every thousand that present themselves. The number of *complete moral* idiots that has occurred, in whom the intellectual compartment of the brain was not also exceedingly

defective, is very small. Yet does it appear, that, in the world's history, such beings are not altogether wanting.

The doctrine which I mean to inculcate, and which I know to be true, is; that when the moral compartment of the brain is deeply defective, the instinctive propensity—the “*ruling passion*” of the individual to the commission of crime is proportionally strong. In such a case, the slightest temptation, unless it be counteracted by the dread of detection and punishment, or by some other selfish consideration of great strength, leads with *certainly* to some criminal act. Although the *will* of the individual, without the aid of counteraction by fear or any other feeling or passion, has the *power* to prevent the criminal deed, it will not spontaneously exercise that power; and the deed will be committed. Except he be under sufficient supervision, the individual thus organized *will* obey his “*ruling passion*,” as uniformly and certainly as the needle points to the pole, or as a ponderous body, when unsupported, descends through the atmosphere to the ground.

And if in a preponderant animal compartment of the brain, one of its organs or subdivisions is also preponderant over the others, that organ, when uncontrolled, leads to the sin of the individual “that most easily besets him.” When tempted and alone he never fails to commit it any more than he does to swallow the food which is placed before him when he is hungry. And he does so for the same reason—to supply a want and satisfy a craving.

But, although the will and a counteracting feeling or passion can hold in check the propensity to crime, they can neither, by their own action eradicate it, nor reduce its strength. That can be done only by the process to be hereafter described.

I shall now proceed therefore to the expression of a few thoughts on what I regard as the best scheme of discipline for the *reformation of criminals*—which I regard as tantamount to *the removal of their mental derangement*.

This subject is not new to me. I embarked in the study of it more than a quarter of a century ago, and about twenty years ago published on it this pamphlet which I hold in my hand, entitled "New views of Penitentiary Discipline and Moral Education and Reform." And, as far as I am apprized in relation to the matter, I was the first person that applied to it the principles of what I then regarded, and still regard, as the only true and valuable system of mental philosophy. And that system is peculiarly adapted, as a means, to minister to the improvement of the discipline and reform of penitentiary convicts.

Within the last ten or twelve years, the subject I am now considering has been made a theme of discussion and publication, by several writers of ability and distinction. Nor do present appearances permit me to doubt, that, at no very remote period, it will be regarded and agitated as one of the most important and absorbing topics, in the enactment and administration of criminal law.

The nineteenth century is destined to be for ever memorable and renowned on account of the discoveries and improvements made in an early part of it, in remedying some of the organic deficiencies of the human race. For it is within that period that the half-creative improvements just referred to have been effected. Within that period, for example, have the blind been taught successfully to employ their fingers instead of their eyes in the acquisition of a knowledge of letters, and the deaf and dumb been furnished with a substitute for hearing and speech. And with these half-divine arts, will be associated, in history, that of substituting, in convicts, virtuous sentiments for criminal desires, by improving the development and balance of their brains.

Already are a few of the penitentiaries, in the United States, conducted in a manner tending somewhat to that effect. But, owing to the principles of moral education and discipline not being understood, by either the estab-

lishers or the governors of those institutions, the tendency is feeble, and its effects slight. Before the system of instruction in our penitentiaries can be, to the requisite extent, either creditable or useful, it must undergo a revolution in both principle and execution—And that revolution must arise from a correct knowledge of the human mind, and of the most efficient modes of changing and improving it being possessed by the persons entrusted with the establishment and administration of penitentiary institutions. But such revolution it *will* undergo; because the condition of society *does* and *will* imperatively demand it. And men qualified to fulfil that demand will be appointed to the task.

There exists in Paris an institution founded on the principles that must be adopted in all penitentiary institutions, and is one of the most interesting I have ever witnessed.—Its object is, to improve, in every respect, idiots of every description and cast. And to the philanthropist and anthropologist, in common with the physiologist, the result of the experiment is in a high degree gratifying, as well as surprising. By the system of instruction and training, to which they are subjected, the pupils are in time so altered and improved in person and deportment, no less than in mind, that you are almost compelled to forget that they are idiots. Your first view of them operates forcibly to that effect. They carry themselves more after the manner of partially-drilled soldiers than of idiots. They march to time in tolerable style; and they fence, dance, and make music with unlooked for efficiency. They also read, write, cipher, and converse with a degree of readiness and propriety quite sufficient for their limited wants, and some of them learn trades which afford them a subsistence.

Of this institution Dr. Voisin, one of the most accomplished phrenologists of the age, is the superintendent. I need hardly add therefore, that he governs it and treats his pupils on phrenological principles. Nor could he, on any

others, improve his idiot-classes as he does, in the attainments I have specified, and contribute so essentially to their comfort and usefulness. And on no other principles can convicts be relieved from their mental malady, and treated rationally and beneficially as subjects of instruction and moral reform.

My object being to expose the impolicy and injustice of capital punishment, and that being inflicted in the United States, as the penalty of murder exclusively, I shall treat only of the sort of discipline specifically adapted to the extinguishment of the propensity to that crime.

The first step in the process is, to see that the penitentiary edifice and its economy be judiciously adapted to the solitary confinement of the convict, and its necessary concomitants. And, of the adaptations and concomitants, most essential and important are, well-aired and dry apartments of a suitable size, a reasonable amount of labor or occupation neither degrading nor disagreeable to the convict, a sufficiency of plain, wholesome, and nutritious food, humane treatment, and moral and religious instruction and discipline. And if somewhat of instruction in general knowledge be super-added, it will improve the process, and augment, to a corresponding extent, the salutary result.

That solitary confinement and labor are preferable to either "congregate" confinement and labor, or to solitary confinement and "congregate" labor, not only appears on principle, but is proved by experience. I shall therefore say nothing farther in recommendation of it.

The administration of the rules and regulations of a penitentiary is not less important, than the character of the rules and regulations themselves. That it may be well fitted therefore to the accomplishment of the end designed by it, the officers of the establishment, especially those who come into immediate contact with the prisoners, and not only superintend but administer their treatment, must be men of high and rare qualities. They must

not be coarse and boisterous terrorists, who govern only by the dread of punishment. The lash, the fetter, and the screw may quell and degrade; but no sort of violence can ever reform. Nor should it ever be resorted to, by those who command, unless it be offered by those who should obey.

That penitentiaries then may be competent schools of instruction and reform, their executive officers ought to be widely different from those to whose immediate agency the administration of their police is usually intrusted. They should be men of enlightened and well-balanced minds, else will they never judiciously and advantageously either deport themselves or govern the prisoners. They must therefore possess benevolence of disposition and practical kindness, governed in the exercise of them by justice and firmness, with which should be associated mildness of manner, accompanied by intrepidity and self-control. To these add vigilance, assiduity, and good faith, a sufficiency of the social to temper the sternness by the moral virtues, and a dignified bearing, and their qualifications fit them for their task. They can then guide by their advice, and govern by their authority. And, in the station they hold, both aptitudes are highly important, and, when judiciously employed, may be rendered subservient to the happiest results.

That no aid or incentive to reform may be wanting, one at least of the instructors of the prisoners, in every penitentiary institution, ought to be a clergyman. And he should be pious, able, and eloquent, in order that in his sermons, exhortations, and general intercourse with the prisoners, he may both encourage and alarm them, by skillfully mingling and forcibly impressing on them the hopes and apprehensions of the award that awaits them, as well in the present, as in a future state. For, as the work to be performed is both momentous and difficult, no man should be allowed to mar it by ordinary qualifications.

In each penitentiary the number of instructors ought to be judiciously apportioned to the number to be instructed. And as every prisoner should be admitted to the privilege of pupilage, the ratio of teachers ought to be, at the lowest, one to every *twenty*, or, at farthest, every *thirty*, of those under conviction, and destined to be taught.

Nor is the entire system of officers yet complete. Each penitentiary institution should have a **COURT OF EXAMINATION AND DISMISSION**, composed of men faithful to their duty, and competent to the performance of it. And their duty should be, to hold sessions at stated periods, to examine into and judge of the moral amendment and general conduct and condition of such convicts as may be reported to them, for examination, by the resident and governing officers of the establishment, and to give discharges from imprisonment, as they may think them deserved.

All evidence respecting the moral improvement and good conduct of the prisoners should be given on oath; and no prisoner should be discharged, except by the *unanimous* vote of all the members of the Court present at his examination. Nor should any one be discharged, whatever may be his age, or however comparatively trivial his crime, in less than *twelve months* from the time of his conviction. And, by the Court of examination, the period of confinement and reform may be indefinitely extended.

Such is the outline of a system of penitentiary discipline and moral reform, which I venture to propose. That its execution will be costly, is true. But it is perfectly within the means of every large, densely populated, and wealthy community. And if established on a liberal scale, and carried out with energy and good faith, it cannot fail to be productive of immeasurable benefit. And, in every penitentiary, whose government is wisely planned, and judiciously administered, I cannot doubt, that the criminals can be made, in time, to defray, by their labor, the expenses of the institution.

I shall only add, under this head, that one of the most important provisions in a penitentiary establishment, where the reform of the prisoners is seriously contemplated, is a competent Board of **EXAMINATION AND DISMISSION** possessed of full and unfettered discretionary power. To sentence, to a definite period of confinement, prisoners who are on a trial of reform, is eminently unwise in principle, and can therefore seldom fail to be useless in effect. It resembles the want of judgment and skill in a physician, who allows himself but a given time for the cure of a disease, and, at the expiration of that time, takes leave of his patient, whose malady, alleviated perhaps, but not cured, returns with renovated, if not redoubled force.

Different diseases, as well as different modifications and conditions of the same disease, call for courses of treatment differing greatly from each other in duration. And so do different degrees and kinds of propensity to crime.

Let the physician therefore attend his patient until his cure is complete, and then dismiss him. And let prisoners be confined, until, in the opinion of the examining Court, their propensities to crime are eradicated, and their reformation entire, and then be liberated. In either case, to act otherwise implies, in the agents, unpardonable carelessness, or a discreditable want of wisdom and efficiency.

Before proceeding farther I deem it expedient to offer a few remarks on another interesting topic included in the subject I am engaged in considering. I do so the more especially, because I apprehend that the point referred to is not generally well understood. And if it be not, interesting and important as it is, it can be neither sufficiently felt and appreciated *on principle*, nor employed as an element in a *system of practice*.

The most important part of the province of penitentiary teachers, is not to instruct their pupils in knowledge, (though that should not be neglected,) but to train them in moral and religious feelings and habits. That their ef-

forts therefore to that effect may be the more successful, the teachers should *be* and *appear to be* themselves both moral and religious men. When genuine and sincere, morality and religion have both an *exterior* and an *interior*—an *outward* appearance and an *inward* reality, which are related to each other as cause and effect. And, in its influence on pupils, the former, which is the effect, is scarcely, if at all, less operative and valuable, than the latter, which is the cause.

In a special manner the exterior of morality and religion, which is their natural language, when possessed by teachers, increases the docility of pupils, by calming and controlling their feelings, and rendering them more attentive to precepts, and observant of examples. Better still; when in presence of their instructors, and under its immediate influence, it carries them out of themselves, and thus, for the time, frees their minds from improper thoughts and reminiscences, which would otherwise have possession of them. In terms still more explicit. The action and manifestation of the moral organs of the *instructors*, being natural excitants of the corresponding organs of the *instructed*, awaken them to the performance of their *specific functions*, and thus give a temporary predominance in them to moral feeling, converting for the time, the criminals themselves into *moral beings*. For, to render men moral, nothing but such predominance is requisite. These are the chief grounds, on which good example produces its effects. Nor can it be doubted that impressions of this sort, frequently repeated, have a salutary effect in the discipline of convicts.

There are many men, in whose presence the disorderly and dissolute become instinctively respectful and decorous in behavior. I need hardly remark, that Washington was, *par excellence*, a man of that description. Before such a monument of moral grandeur, no less *without* than *within*, the wretch did not live, who, in his sober senses, would

have had the effrontery to be profane, disrespectful, or indecorous. With regard to the late Mr. Roscoe, of Liverpool, who in person resembled Washington, the same was true. Nor was it less so with respect to the late Bishop White of Philadelphia, and the Rev. Dr. Hall of North Carolina. No man, except under insanity from intoxication, or some other cause, could have had the hardihood to be dissolute, indecent, or disrespectful in the presence of those morally august personages. And what Washington, Roscoe, White, and Hall were in perfection, every man is in part, in proportion to the moral dignity he manifests.

This truth is beautifully illustrated by Virgil, in his vivid and bold description of the tempest let loose, to gratify the vindictiveness of Juno, by effecting the destruction of the Trojan fleet. By command of the goddess, Æolus unbridled the winds, and sent them forth, “qua data porta,” in all their storminess, to settle on the sea, which they lashed, in a short time, into furious commotion—For the poet tells us :

“*Una eurusque notusque ruunt, creberque procellis
Africus ; et vastos volvunt ad littora fluctus.*”

“*South, East, and West in mixed confusion roar,
And roll the foaming billows to the shore.*”

This fearful conflict of the elements of earth, brought on by the malice of one of the celestials, shook to its centre the empire of the waters, and called up Neptune, from the depth of his abode, to quell and tranquilize it. And that he did by the majesty of his appearance, gracefully but magnificently floating in his sea-shell car, and by his minatory “*Quos Ego—*” to the embattled winds, accompanied by an imperial wave of his trident-sceptre. And the following is the poet’s plain and correct analogical inference, as to the cause of the immediate effect of Neptune’s brief address.

“*Ac veluti magno in populo cum sæpe coorta est*

“*Seditio, sævit animis ignobile vulgus ;*

“*Jamque faces et saxa volant ; furor arma ministrat ;*

“*Tum pietate gravem ac meritis si forte virum quem*
 “*Conspexere, silent, arrectisque auribus adstant ;*
 “*Ille regit dictis animos, et pectora mulcet.*”

“As when in tumults rise the ignoble crowd,
 “Mad are their motions, and their tongues are loud ;
 “And stones and brands in rattling volleys fly,
 “And all the rustic arms their fury can supply ;
 “If then some *grave and pious man* appear,
 “They hush their noise and lend a listening ear ;
 “He soothes with sober words their angry mood,
 “And quenches their innate desire of blood.”

It thus appears that as long as two thousand years ago, men were *practically* as genuine phrenologists and mesmerists, as they are at present. For, by nothing but the fine phrenological development of the moral region of his head, and the grave and dignified mesmeric expression and deportment which that development produces, could a “*grave and pious man* hush the noise of a brawling and ignoble crowd” and induce them to listen to an address by him, at the commencement of the christian era, any more than he can at the present day. In confirmation of the correctness of this exposition of the event, it will be observed, that it was the *appearance* of the man, and not his *words* that *hushed* the noise of the crowd. And when he found himself possessed of their “listening ear ;” he then addressed them, and, by his words and appearance united “quenched their innate desire of blood.” And a similar appearance in penitentiary teachers would produce on their pupils a similar effect.

I shall now, without further preamble, enter on the immediate exposition of the process and philosophy of criminal reform.

The means being provided, and the arrangements completed, the business of reform is now to be commenced. The brain of the culprit is out of equilibrium, its animal compartment being inordinately large, and its moral one correspondingly diminutive. And the special development being that of the open murderer, or the secret assassin ; in the former case the organs of Destructiveness and Com-

bativeness are predominant in the animal compartment; and, in the latter, the organs of Destructiveness, Cautiousness, and Secretiveness.

The end to be attained therefore is to *weaken them*, and strengthen their counter organs, Benevolence, Veneration, and Conscientiousness, and the equilibrium will thus be produced.

But, in as much as it is alleged, by some of my opponents, that, the brain being encased in a covering of bone, we cannot have free access to the organs just referred to, the question may be put:

“How is the requisite change in them to be effected?”

To this I reply, that the allegation, which constitutes the foundation of the objection, is groundless; and that therefore the entire super-structure is but a creation of fancy. We not only *can* have free access to the organs to be altered—we *have* such access to them perpetually, by a process familiar to every person, who has paid to the subject the slightest attention.

We reach the organs, by administering or withholding their natural stimulants, with which every enlightened physiologist has an intimate acquaintance. When we administer them, we excite the organs and throw them into action. And when we withhold them, the effect is the reverse. Excitement to the organs being denied, their action to a certain extent is prevented. But that, by healthful excitement and action, every living organ is strengthened, is an axiom in physiology. And that, by perfect quietude, long enough continued, it is weakened, is equally true. To neither allegation does an exception exist, in living organized matter.

Withhold from the convict then, as far as possible, every object, expression, thought and feeling that can provoke resentment, and every object, expression, idea, and feeling connected with violent death or destruction of any sort, and his organs of Combateness and Destructiveness are

debilitated. And excite his organs of Benevolence, Veneration, and Conscientiousness, by benevolent, religious, and conscientious impressions, produced by acts, exhibitions, conversation, and reading—or by any other kind of suitable agency, and they are certainly strengthened.

By the same process of withholding and applying the natural stimulants, you may weaken and strengthen, at pleasure, any cerebral organs that are out of equilibrium with each other, and by that means reduce them to balance and harmony. I do not guaranty that, by thus proceeding, your experiment will *always completely* succeed. On the contrary, there is reason to believe that it will not. But I do guaranty that you will be in the employment of the best means of success; that you will moreover be generally successful; and that, should you even fail to succeed to the extent of your wishes, you cannot, if you practise sufficient perseverance, fail to produce highly beneficial results.

Do any of you entertain doubts of my correctness in asserting the practicability of exciting, at pleasure, any organ of the brain, whose activity and power you may wish to augment? Let me convince you, by example and illustration familiar to every one, that your doubts are groundless and my assertion true.

For this purpose I simply refer you to the daily achievements of the orator and the stage-player. It is known to you that they arouse, in their audiences, without difficulty, whatever feeling, whether of animal passion, or moral emotion, may best suit their purposes. And this they do, by throwing into strong action the several organs of the brain, in which the passions and emotions, to be awakened and called forth, originate and have their seats. For passion and emotion are nothing but the result or manifestation of the action thus produced. They are the natural language of the organs under strong excitement. The means moreover of producing that excitement are as fa-

miliar and easy as the means of exploding gun-powder, or producing flame. The orator or actor addresses the organs in their own *conventional* language, and manifests to them, in his aspect and action, their own functions, or *natural* language, and his end is attained.

Does he wish to throw into action the organs of Combativeness and Destructiveness? He employs, as his means, their own language, natural and conventional, and produces by it, in his audience, fierce resentment and a thirst for blood.

It was thus that Demosthenes excited in the Athenians these bold and burning propensities to battle and slaughter, until the assembled multitude sprang to their feet, with one feeling, and exclaimed, with one voice, "*Let us march against Philip!*" It was thus, that, on the ever memorable fourth of July 1776, when our Congress of that period were preparing for the vote on the Declaration of Independence, Adams the elder so inflamed them, by the ardor of his oratory, that, in the words of Mr. Jefferson, he "*raised them from their seats.*" And, on the same principle, at the present day, when an officer, of well-trying gallantry, is leading his disciplined cohorts to the charge, a brief address to them, in like style and spirit, makes every man a hero. So easy is it for any one of moderate skill and power, to find his way to the cerebral organ he wishes to excite.

Is it the clergyman's design to awaken in his hearers sentiments of piety, reverence, and adoration? He addresses them as well in the reverential thoughts, as in the deep-toned and solemn language, and bowed-down manner, of which those sentiments are themselves productive.—He becomes himself the symbol of those sentiments. And his hearers are instinctively moulded to his purpose.

Does the speaker wish to produce in his audience gayety and merriment? He addresses their organ of Mirthful-

ness, in the style, manner, and matter that are congenial to it; and his end is attained.

And, in relation to every other sentiment, passion, and emotion that belong to human nature, the same is true. The orator, who wishes to excite them in his audience, must first feel and personate them himself. Hence the correctness and force of the apothegm in the art of speaking; "*Si vis me flere, dolendum est primum tibi-ipsi.*"

In effecting the changes that are required, in the process of improving the defective equilibrium of the brain, in the reformation of criminals, the same principles prevail, and the same course is to be pursued. The weak moral organs are to be strengthened, by the judicious application to them of their natural stimulants; and the predominant animal ones are to be reduced in strength, by the withholding of theirs. The process is so plain and simple, that a knowledge of it, in all its practical details, can be attained in a short time, by those who are desirous of it.

Am I asked, how the measures here recommended increase the strength of weak organs, and diminish that of powerful ones? I reply, by augmenting the afflux of blood to the exercised and excited portion of the brain, and thereby increasing its size, tension, and firmness, enduing it with a larger amount of vitality, and improving it in its readiness and habit of action—And by affecting, in a manner the reverse of this, the part to which stimulus and excitement are denied—By reducing, I mean the afflux of blood to it, by withholding its congenial stimulants, thereby diminishing its size, tension, firmness, and vitality, and rendering it less apt and efficient in the performance of its functions.

Such are the effects which stimulation and the denial of it are known to produce on all living organized matter—the brain not excepted.

Is the question seriously put to me; Can the brain, or any portion of it be augmented in size, after the attain-

ment of adult age by the individual to whom it belongs? I reply that it can, as certainly as can the hand of the wood-chopper, the arm of the blacksmith, or the leg of the opera-dancer. I have in my possession a few casts of heads in proof of the fact. And I have seen several others, which I was unable to procure.

Herschell the elder did not commence the *intense* pursuit of astronomy, until he had passed the fortieth year of his age.

I have seen three casts of the head of that great explorer of the heavens, taken at three different periods remote from each other. The first was taken in his forty-first year; the second about his fifty-fifth; and the third about his sixty-fifth. And the development of that region of his head, in which lay his astronomical organs, had very perceptibly increased during the time of his astronomical career. In the cast first taken the development of the region referred to was somewhat uncommonly full; in the second it was more full; and, in the third, the fulness was still farther increased.

I have in my possession two casts of the head of Dr. E—l—n, of London, taken at two different periods of his life, four years apart; the first being taken at the close of his twenty-third, and the last at the close of his twenty-seventh year.

Until the time at which the first cast was taken, Dr. (then Mr.) E—l—n had been a teacher of music. Abandoning that profession, he then repaired to Cambridge, and applied with great assiduity to the study of medicine, until the close of his twenty-seventh year, when he was rewarded for his industry and attainment with a professional degree. And when compared with each other, and submitted to admeasurement, the two casts demonstrate the occurrence of a striking augmentation in the size of several of the intellectual organs of Dr. E—l—n's brain, (especially those of Comparison and Causality) between the

end of the twenty-third, and that of the twenty-seventh year of his age. Why?—Because, during that period, he had kept those intellectual organs in a state of high excitement and action, by his close application to the study of his profession. Meantime his organs of Music had decreased in size, because he had almost entirely abandoned the exercise of them.

Another thought on the reform of criminals, and the subject will be dismissed. All the labor performed by them should be, on their part, *voluntary*, not authoritatively imposed on them as a task or a punishment—nor as the only alternative by which they can escape punishment. It should be willingly and cheerfully accepted, or even eagerly sought after by them, as a relief from the tedium of solitude, and an exercise favorable to their health and enjoyment. For such it really is to those who engage in it with alacrity, and industriously practice it. And a vast majority of prisoners (if not every individual of them) can, by judicious management, be easily induced so to consider and so to pursue it. They can be so trained and habituated to employment and industry, as to regard a deprivation of them as an evil and a punishment. And by the instrumentality of habits thus established and confirmed, their final and permanent reform is the more readily secured. *Indeed they themselves constitute reform.*

It is not in dead matter alone that action and re-action are equal and opposite. The same is true of living matter—the same, in a special manner, is true of man. He instinctively resists and rebels against all that is compulsive. That which is enforced on him, therefore, as a task or a punishment, is never productive of salutary effects. It may subdue and debase him; but, whether it be applied to the mind or the body, it never can operate as a means of improvement. Nor is this less true of those who are in fetters, than of those who are free. On both classes the stamp of human nature is equally deep-struck, strong, and ineffaceable.

The education and discipline therefore which are to reform criminals, and restore them, in any degree, to the rank they have lost, must be elaborated and accomplished by themselves, else will the object never be accomplished. The mere *abstract* labor of others in relation to it, whether it be in the form of precept, force, or persuasion, is nugatory. The task must be self-executed or not executed at all. And the same is true of the education and training of every person, in every branch of knowledge, and every accomplishment, whether bodily or mental.

Education is to the mind what food is to the body. When of the proper kind, and properly prepared and administered, each nourishes, strengthens, and improves the subject that receives it. And, though the two processes of nourishing the mind and nourishing the body are widely different from each other; yet do there exist between them sundry analogies both striking and instructive.

Food for the body may be provided, prepared, and administered by others; but, by each individual, it must be willingly received, further prepared, swallowed digested, and assimilated by himself.

With education, which is food and training to the mind, the case is the same. Parents, guardians, and others, may provide and prepare both the matter and means; teachers may superintend the administration of them; but those whose minds are to be the benefitted recipients of them, must perform the remaining and most important part of the ministry themselves. To employ the homely but strong, and significant phraseology of the seaman, they must themselves "work with a WILL" in the process, else will it never be accomplished. For the will, being the *leading* intellectual power, must take not only a part, but the *leading* part in every intellectual enterprise and operation, or their failure will be inevitable. So true is this, that an individual with moderate talents, commanded by a strong, steady, and indomitable will, is much better qualified for

the achievement of high and arduous enterprises, than is a man endowed with talents of the highest order, whose will is wanting in steadiness and energy.

And this, gentlemen, is as true in relation to your own education and performances, in future life, as it has been with regard to those of the millions that have preceded you in their career. For, in the never-changing nature of things, it is necessarily true of every one. A few special remarks therefore on that topic shall close my discourse.

I have referred to your education, in the future tense, but perhaps so equivocally, that some of you may be inclined to doubt, and ask me, whether I mean that it is yet unfinished? I answer respectfully, but positively, that I do; and, that for it to be otherwise is impossible. Your youthfulness forbids even the fancy that your education is more than fairly commenced. My own education is yet unfinished; though I have pursued it, with some degree of industry, for more than thrice the number of years that either of you has lived.

That, under the auspices of Augusta College, one of the most respectable institutions of its class in the Mississippi Valley, you have laid a very excellent educational foundation, circumstances do not permit me to doubt. But to admit that you have done more would be to attribute to you the possession of superhuman capacity. On the foundation you have laid the entire superstructure is yet to be erected. And that portion of the edifice, its order of architecture, style, and decorations, must be the product exclusively of your own *industry* and *genius*, *perseverance* and *taste*. And, by the instrumentality of those means, under the control of a will that virtually denies the very existence of *difficulties* and *obstacles*, by promptly encountering and vanquishing things so called; and which, by thus proceeding, excludes from its vocabulary the terms *accident* and *chance*, you can mould and finish the fabric as you please, and thus become literally "*Fabri tuarum fortunarum.*" I

say that the terms "*accident*" and "*chance*," as names given to events preventive of success, should be exploded; because, in their import, they violate truth, detract from from the spirit and energy of enterprise, and do injustice to the **AUTHOR** of nature, who never permits an event to occur, but in compliance with a law, which neither changes nor errs. He therefore who, being disappointed, suffers or loses, by an event which he denominates *accident* or *chance* (as if it were produced *without* law, or *contrary* to it) has violated or departed from some law on which his success depended, and is therefore the author of his own disappointment. For there is no truth more certain or sacred, than that, by the goodness and wisdom of his **CREATOR**, man, in a sound condition, is so framed and endowed, and placed in this world under such circumstances, as to possess the control of his own fate and fortune, provided he never, through ignorance or otherwise, either infringes or neglects the natural law or laws under which he is acting. When therefore he commits such infringement or neglect, and suffers the penalty of his fault, he virtually, I say slanders the **AUTHOR** of nature, and exposes his own ignorance, by insinuating, through the name he affixes on the occurrence which injured him, that it was produced *without* law, or *in opposition* to it.

Did I not believe in the correctness of these remarks, I should be a stranger to the ground of human responsibility. For, if deprived of the power and means to do what is right, we cannot be justly held responsible for doing what is wrong. And, if the remarks be correct (as I am confident they are) there is not in the Society I have the honor to address, a single member, who has it not in his power to attain standing and distinction in the profession he may select. And of that fact my persuasion is immutable; because, not only does it comport with the reason and nature of things; it is founded on the observation and experience of a protracted life-time; no inconsiderable

portion of which has been devoted to the study of the natural history and philosophy of the human race. And the result of that study is a farther conviction, that for every individual on whom nature confers eminence through superiority of endowment by herself, individual industry and perseverance in intellectual labors impart more or less of eminence to thousands. And each individual who thus improves, by the exercise of his mind, does so on the same principles that are brought into action in the education and reform of penitentiary criminals. He enlarges, strengthens, and renders more active some of the organs of his brain.

Up to the present period, Gentlemen, I have reason to presume, that your studies have been chiefly of a literary character—somewhat diversified, by the amount of application usual, in our Colleges, to what is called *scholastic* or *collegiate science*. To make progress in attainments of that description, therefore, your attention has been directed chiefly to books from the press—books which are the production of man, and therefore always fallible, and too often actual reservoirs of error, with its numerous evil concomitants and consequences. And, with works of that description, you must, of necessity, not only maintain your acquaintance, but extend and farther mature and confirm it.

Scholarship and learning consist in a knowledge of the mental productions of those who have preceded you in the world of letters. And that you should hereafter gain possession of a portion of that, far beyond what your youthfulness has allowed you yet to attain, is a duty which you owe no less to Augusta College, in which you have been educated, and to your friends and your country, than you do to yourselves. Nor shall any thing short of the fact itself convince me, that you can ever refuse compliance with an obligation so sacred in itself, and whose discharge is so essential to your own reputations and usefulness in life.

As most of you however will probably soon engage in

professional studies, your attention, from this time, will be much more than heretofore directed to the attainment of general science; and, in your pursuit of that, another book will open to you its pages abounding in matter which will never mislead you, provided you qualify yourselves for a correct understanding of it.

That book is not the product of the human pen. It is in the autograph of the DEITY HIMSELF, dictated by his Wisdom and Goodness, and executed by his Will. It consists therefore in an emanation from the source of immaculate Truth, authenticated by the impress of its omniscient AUTHOR.

It is the Book of Nature, which is at once the real and exclusive source and only standard of human science, and with which all scientific writings must harmonize, else are they spurious, and should be condemned and rejected.

On the subject of that production, which, from its antiquity and divine authorship, has been aptly denominated the "ELDER REVELATION," I deem it not unimportant to invite your attention to a few further remarks.

Science is nothing but the knowledge of nature correctly classified and reduced to system. In the Book of Nature therefore, though science is not actually systematized, in the usual acceptance of that term, yet may it be regarded as suitably arranged and embodied, in well devised sections, under appropriate and significant headings.

And here permit me to observe, that this is equally true of moral and physical science. The Book of nature is the source of both. The whole code of morals, including the Decalogue, and every other moral sentiment, is nothing but a transcript of the moral constitution of man. And if it were not, it would be *useless* to man; because he could neither understand it, feel it, nor act in conformity to it. Had not the Deity, in his "*Elder Revelation*" first written out his moral code, in the moral nature of our race, to no pur-

pose would he have proclaimed it, in his *subsequent* one, from amidst the fires and thunders of Mount Sinai.

With the contents therefore of some of the sections of the Book of nature you *must* become acquainted, or remain strangers to the principles of any and every public calling you may hereafter pursue, and thus subject yourselves to the charge of professional empiricism. But to no such degrading imputation, as I feel convinced, will any son of Augusta College, and member of a Society, whose Insignia are emblazoned with the time-and-world-honored name of the Sage of Monticello, ever submit. And you well know that the only way to escape the imputation is not to deserve it. In conformity to such knowledge therefore will your conduct be faithfully framed and regulated.

But, that I may be, in all my communications, completely understood by you, permit me to ask; are any of you inclined to put to me the question, "Where is this Book of Nature, whose contents you so highly and ardently extol, representing them as recorded in the hand-writing of the DEITY, and being an embodiment of all that is precious and useful in science?—Direct us where to find it, that we may forthwith procure it, peruse it and be wise?"

Before framing my reply to such interrogatory, let me put to the interrogators the much more difficult question, "Where is the Book of Nature *not to be found?*"—for it fills creation—It reaches every point of space to which the God of nature has extended his all-creating Will. THE BOOK OF NATURE IS CREATION ITSELF—and you are yourselves a portion of it. It is therefore in you and around you—above, below, and on every side, and is divided, as already alleged into different sections, to attract the attention, suit the taste, and enrich the intellect of every observer, with the science of his choice.

If you look, either by day or by night, into the arch of the serene and bright blue heavens, the Book of Nature is there, presenting to you its sublime and glorious section of ASTRONOMY and LIGHT.

Limit your view to our own atmosphere, agitated by winds, darkened by clouds, illumined by fire-balls, gleaming with lightning and resounding with thunder, or pouring down showers of hail and snow, or torrents of rain, and you have there the Book of Nature, open at the section of **METEOROLOGY**.

Look abroad on the solid earth, and the waters that surround it in seas and oceans, that dot it with lakes, and checker it with rivers, creeks, rivulets and fountains, and you have another view of the Book of Nature divided into sundry sections and sub-sections, and diversified with sources of knowledge, varying from each other in points almost innumerable—yet each of them of great attractiveness and value.

On the surface of the earth, and at various depths beneath it, in different classes of rocks, the genuine and truth-telling **MEDALLIONS OF CREATION**, struck by the hand of nature herself, you read the history of our globe, and of sundry races of its primitive inhabitants, for millions on millions of years before it became a fit habitation for man, and the tribes of inferior animals that now people it. This constitutes, in the volume I am considering, the section of **GEOLOGY**, of which Mineralogy constitutes a sub-section of priceless value.

The Book of Nature further presents to you, in its pages, two other sources of knowledge, rich in their treasures of instructive and valuable matter, far beyond all else that earth contains. They are the two great and glorious kingdoms of living organized beings, Vegetables and Animals, which now people our globe, and consummate its *beauty, fascination, and importance*. For it is from its *living matter* that those attributes chiefly arise.

Of the vegetable kingdom the whole is comprised in the general section, Botany, of which, though the sub-sections are numerous, none of them need be noticed on the present occasion.

The animal kingdom furnishes matter for the grand section, Zoology, which is subdivided into various minor ones, greatly diversified in the usefulness and value, as well as in the curious and interesting character of what it contains.

Of the minor sections, Conchology and Ichthyology treat of aquatic animals, Herpetology, Tetrapodology, and Anthropology of animals belonging chiefly to dry-land, and Entomology and Ornithology of those belonging principally to the atmosphere.

Nor have I yet disclosed to you all the sorts of knowledge comprised in the volume of which I am treating. Whatever makes a part of science, in the legitimate interpretation of the term, pertains to it. So true is this, that with sufficient propriety its name might be changed, and the Book of nature be called the **BOOK OF SCIENCE**. And art itself is nothing else than some of the principles and forces derived from that volume, rendered obedient to the will of man, and converted into means and instruments of action. If either or all of you therefore be ambitious to enrol your names among those of the discoverers, inventors, and improvers of the age, whether it be in the department of science or of art, such is the abundant richness and extent of the Book of nature, that only from it can you derive your means of success. Nor is this all that may be said of its opulence and value, as a fountain of knowledge. It furnishes to the architect and the engineer the principles, materials, and prototypes of all they project and construct, whether of magnificence and grandeur, ornament, or value.

Nor do the means that minister to the renown of the painter and the sculptor come from any other quarter. And, in proportion as the performance of either artist approaches a perfect resemblance of some of the products of nature, the closer is the approximation of his fame to immortality. It is only therefore when he has *equalled* nature, that he is a Phidias or an Apelles.—Once more.

From no other source come poetry and fiction, with their elegancies, brilliancies, sublimities and wit, and all their other qualities that fascinate and delight. Take from the poet the witcheries and charms of elegant and delicate colors, forms and fragrance, of graceful motion, airy lightness, spirit-like swiftness, whispering breezes, crystal founts and streams, and melodious sounds, all of which are attributes of nature exhibited through her flowers, fruits, shells, waters, insects, birds, and other productions—take these from the poet, and in one department of his calling you disarm and beggar him.

Deprive him of the boldness and strength of his lion, his war-horse, his heroes, and demi-gods, the blaze and burst of the volcano and the thunder-cloud, the concussion and fearful devastation of the earthquake, the roll of the drum and the roar of the cannon, the clash and glitter of the warrior's steel and the clang of his trumpet—deprive him of these formidable weapons of his art, and you completely disarm him in another department of it.

Nor do you less disqualify him for success in a third, when you exclude him from the resources of his hideous monstrosities of form, and his vastness of size, space, elevation, and wild disturbance—such, for example, as his Cyclops and “Spirit of the Cape,” his sky-piercing mountain, his ascent of the eagle in his journey toward the sun, and of the rush and sweep of the whirlwind and the hurricane, the dash of the cataract, and the fearful grandeur of a tempest-beaten ocean—wrest from Homer, Virgil, Milton, Byron, and even from that world's enchanter, Shakspeare himself, the instruments of their art, with which nature supplied them, and, in the words of the latter, their verse, destined, as it now is, to be immortal

“ Will then dissolve,
 “ And like an insubstantial pageant faded,
 “ Leave not a rack behind.”—

Nor is the poet less indebted to the Book of nature for his objects of moral, than he is for those of physical gran-

deur and sublimity. From no source other than that could Akenside have drawn the elements of the scene he has so inimitably depicted ; where

* * * * * “ Brutus rose,
 “ Refulgent from the stroke of Cæsar’s fate,
 “ Amid the crowd of patriots ; and his arm
 “ Aloft extending, like eternal Jove,
 “ When guilt brings down the thunder, called aloud
 “ On Tully’s name, and shook his crimson steel,
 “ And bade the Father of his country hail !
 “ For lo ! the tyrant prostrate in the dust,
 “ And Rome again is free !”

Another peculiar and important advantage possessed by the Book of Nature over all productions by the human pen, is, that it is always at hand, soliciting your perusal, by the attractions it offers ; and its contents, as already stated, are so diversified, that you can change, at pleasure, from subject to subject, and never experience satiety or fatigue. Whether you are in solitude or company, in your own dwelling or the street, the city or the country, on land or on water, by day or by night ; and whether you are in the forest or the prairie, on the hill-top, or the mountain, the Book is open before you, ready to be consulted and to communicate instruction, amusement and delight. And this is the case in all seasons and climates, and no less in the noon of the night than in that of the day. Might I again speak of myself, I would say that all this I know by experience. For I have consulted that truth-teaching volume, in a manner not dissimilar to that, in which an illustrious critic directs the writings of Homer to be consulted :

“ Be Homer’s works your study and delight ;
 “ Read them by day, and meditate by night.”

Nor do I hesitate to say, that, for whatever amount of science I may possess, my obligations to the Book of Nature are tenfold weightier than to all that the pen of man has accomplished. You will not be surprised therefore that I strongly and earnestly recommend it to your attention. Feeling that I have been greatly benefitted by it myself, it would delight me not a little, to believe in my instrumentality, by recommendation and counsel, in inducing you and others to consult it, and derive from it a similar or a higher and more valuable reward. By such a course,

it might be easily shown, that, in both duration and extent, the reign of error would be greatly abridged.

Thus far, gentlemen, I have addressed you on matters of literature and science. A momentary advertence to those of feeling and sentiment shall close my discourse.

This is the first meeting we have ever held with each other, and, in a corporate capacity, it is destined, I doubt not, to be also our last. Individually and casually, some of us *may* meet again; but our intercourse can scarcely, by any contingency, be other than transient. Our different conditions, in years and their accompaniments; the different objects of our attention and pursuit; and the different directions of the paths we are travelling, will, to some extent, of necessity, produce this result. I am far advanced in *my* progress on the descending, while you have but little more than commenced *yours* on the ascending section of the journey of life. Your aspirations, hopes, and resolutions are forward, ardently bent on what you are determined to *do*, to *be*, and to enjoy. In what is yet to come of this sublunary state of being, I, taking comparatively but little concern, am much more engaged, in a retrograde direction, with reviews and reminiscences of things that are past. Such is the difference that naturally exists between the mental employments of the old and the young. Hence, on the score of companionship and its relations, they are but indifferently qualified to associate with each other.

Were I to meet you daily therefore, I could minister but little to your youthful pleasures, recreations and enjoyments. I could only communicate to you somewhat of the result of my experience, researches, and remembrances, cheer you in your course toward the goal of your aspirations, by anecdotes of the successful efforts of others, and extend to you the kindness of my feelings and wishes.

The former of these acts I have, in a slight degree, accomplished, in the course of my address. I have there (with a view to such accomplishment) intentionally laid before you, in an unfinished condition, no inconsiderable amount of matter, neither hackneyed nor destitute of interest and importance, which may serve *all* of you hereafter, as a subject of useful reflection and inquiry, and afford to some of you perhaps a field of professional action—a field moreover that may possibly, at a remote period,

revive in you the faded memory of the present occasion ;

“ — *Forsan et hæc olim meminisse juvabit.* ”

That capital punishment is destined to be abolished from the policy of our country, I do not entertain the shadow of a doubt. And it would cordially gratify me to be able to anticipate that some of you, whom I have this day had the honor to address on that subject, may take a lead in the legislature, that shall effect in the penal code of our Commonwealth the salutary change.

Be this anticipation however realized or not ; I cannot but avail myself of the present moment, most cordially to congratulate you, *as sons of the West*, on the important boon of the *first legislative Act of the abolition of capital punishment* being the issue of A DAUGHTER of the West. The Legislature of Michigan, one of the youngest of our sister States, immortalized itself, at its late session, by the enactment of a law to that effect.

Nor do I deem it more than *possible*, that the Legislature of Kentucky, the eldest and most experienced of the Western sisterhood of States, will be dilatory in following an example at once so fraught with humanity, benevolence and wisdom.

And now, in execution of the second act of the aged to the youthful, to which reference has been made, (I mean the extension of affectionate regard) let me tender to you an assurance, that wherever your pleasures or destinies may lead you, in whatever walk of life it may be your fortunes to tread, and whatever of good or evil may become your portion, you will carry with you my sincere and heartfelt wishes for your health and prosperity, distinction and happiness.—Farewell !

MISPRINTS.

Page 15—9th line from the bottom, for “unision” read unison.

Do. 23—3d line from the bottom, for “inexhorable” read inexorable.

Do. 25—3d line from the bottom, for “addage”, read adage.

Do. 28—5th line from the bottom, for “reckning” read reckoning.

Do. 39—19th line from the bottom, for “philantropist” read philanthropist.

Do. 43—14th line from the bottom, for “unparkonable” read unparadonable.

Do. 48—12th line from the bottom, for “achivement” read achievement.

For gibet, passism, read gibbet.